

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PATRICK J. BACA,

Plaintiff,

vs.

No. CIV-02-1002 JB/ACT

DAVID SKLAR and the
BOARD OF REGENTS OF THE
UNIVERSITY OF NEW MEXICO,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on: (i) the Plaintiff's Designations of Deposition Testimony of Dean Trotter to be Read at Trial, filed July 27, 2005 (Doc. 137); (ii) Defendants' Objections to Testimony Dean John Trotter, Ph.D., filed July 29, 2005 (Doc. 142); and (iii) Letter from John M. Wells to Hon. James O. Browning (dated July 29, 2005).

PROCEDURAL BACKGROUND

Baca states that he has been informed that Trotter will not be available in person at the time of the trial and designates portions of his deposition to be read at trial: (i) Page 3: lines 1 through 14; (ii) Page 4, line 18 through page 5, line 25; (iii) Page 13, line 22 through page 15, line 18; and (iv) Page 44, line 20 to the end of the deposition. Baca provided a copy of the deposition, with these portions highlighted in yellow. The Defendants object to the admissibility of portions of the transcript that Baca has designated; the Defendants' objections were marked in orange.

ANALYSIS

1. 45:5-46:18.

The Defendants object to this section as irrelevant because it involves issues of discrimination. The Court will sustain the objection to the sentence that runs from line 7 to line 9 and lines 13-17 on page 45; and the words “The program” in line 3, line 4, and the phrase “hire minority faculty members” in line 4 on page 46. Otherwise, this objection is overruled.

2. 61:9-62:10.

The Defendants object that the question is argumentative and contains comments of counsel. The Court will sustain the objection to lines 11 through 13 on page 61. Otherwise, the Court overrules this objection.

3. 62:21-23.

The Defendants objects that these are extraneous comments. The Court sustains this objection.

4. 66:10-20.

The Defendants objects that these questions have been asked and answered, and that the testimony is cumulative. The Court overrules this objection.

5. 69:17-18.

The Defendants objects to these extraneous comments. The Court sustains this objection.

6. 70:13-96:9.

The Defendants objects to this large block of materials on a number of grounds. They contend that the questions and testimony concern issues not relevant to this case; the evidence contains speculation and conjecture; there are questions asking opinions about interpretation of rules and procedures regarding OEO and hiring; there are hypothetical questions with speculation and

conjecture; there is testimony concerning irrelevant issues such as discrimination and diversity at UNM; and this portion of the transcript raises irrelevant issues concerning processes for investigation at UNM.

The Court will sustain the objection to line 10 and lines 22 through 25 on page 71; lines 1 and 25 on page 72; lines 1 through 11 on page 73; the words “when probably” on line 4, line 5, and line 6 on page 74; lines 18 through 25 on page 75; lines 1 through 3 on page 76; lines 17 through 19 on page 78; lines 2 and 3 on page 79; lines 2 and 3 on page 90; line 11 on page 91; lines 6 and 7 on page 93; and lines 18-21 on page 95. Otherwise, the Court overrules the objections.

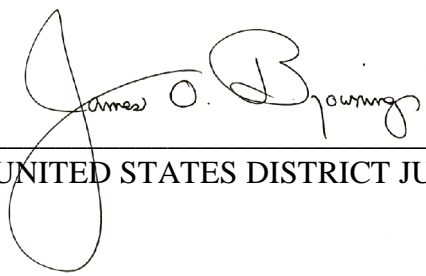
7. 96:24-97:10.

Sklar objects that this testimony lacks foundation and is speculation. The Court sustains the objection to lines 2 through 5 on page 97. Otherwise, the Court overrules the objection.

8. 97:24-98:16.

Sklar objects that this testimony concerns issues which are irrelevant to the issues before the Court; on the other hand, Sklar states he would move its admission if the Court determines that previous questions concerning duties of UNM to find other employment for Baca is admitted. The Court overrules the objection and will admit this testimony, except the parties will not read lines 14 through 16 on page 98.

IT IS ORDERED that the Defendant’s Objections are sustained in part and overruled in part as set forth herein.


UNITED STATES DISTRICT JUDGE

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